

MEMO ENDORSED

DONOGHUE, THOMAS, AUSLANDER & DROHAN, LLP

ATTORNEYS AND COUNSELLORS AT LAW

2517 ROUTE 52

HOPEWELL JUNCTION, NEW YORK 12533

OFFICE COPY

(845) 227-3000

TELECOPIER (845) 227-6873

JOHN M. DONOGHUE
LAWRENCE W. THOMAS
JAMES P. DROHAN
DANIEL PETIGROW
STUART S. WAXMAN*

ANA ISABEL GONZALEZ
JUDITH CRELIN MAYLE
BRYN SARVIS PACE
NEELANJAN CHOUDHURY

PARALEGAL
LYNN W. CYBULSKI
CHRISTINE A. MERSAND

*ADMITTED IN NEW YORK AND NEW JERSEY

OF COUNSEL
ROCHELLE J. AUSLANDER
D'ANDREA & GOLDSTEIN
NATALIE J. MARSHALL

WESTCHESTER COUNTY OFFICE:
700 WHITE PLAINS ROAD
SCARSDALE, NEW YORK 10583
(914) 725-7893
TELECOPIER (914) 472-1840

February 28, 2008

VIA FACSIMILE: (914) 390-4152

Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
United States Courthouse
300 Quarropas St., Room 533
White Plains, NY 10601

USDS SDNY
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RE: Pape et. al. v. Wappingers Central School District, et. al. (Case No. 07cv8828)

Permission Granted For This Communication by Mike

Dear Judge. Karas:

Our firm represents the defendants in the above-referenced matter. We respectfully request an extension of time to answer or move to dismiss under Rule 12[b] of the Federal Rules of Civil Procedure. Due to the unusual circumstances regarding this matter, I have received permission from your part clerk, Mike, to make this request via fax.

Plaintiffs originally commenced this action with the SDNY's Clerk's office in Foley Square. Upon information and belief, plaintiffs served copies of the Summons and Complaint on defendant, the Wappingers Central School District ("District"), on or about February 7, 2008. The District then forwarded the papers to its insurance carrier. The District was not provided a Rule 4 waiver of service form and therefore is under the 20 day time limit to answer or move.

Our firm was informed of the Summons and Complaint but was not assigned as counsel to the named defendants until February 26, 2008. The carrier, however, granted us

permission to make an application to Judge Baer to transfer the case from Foley Square to White Plains, pursuant to SDNY Local Rule 21[a][i] and prior to assigning us the case, so as to preserve the District's rights. We made our application for transfer on February 21, 2008 and Judge Baer granted this request on February 25, 2008 (copy of so ordered letter enclosed).

Upon being assigned by counsel for all defendants, we made an application, with plaintiffs' attorney's consent, to Judge Baer for an extension of time to answer or move on February 26, 2008 (see enclosed). Due to our office's trouble accessing PACER (an issue I have already discussed with Judge Baer's law clerk) we were unaware that Judge Baer had already granted our request for transfer on February 25, 2008. Today we were informed by Judge Baer's law clerk that since the case has been transferred, Judge Baer no longer has jurisdiction over the case and cannot address our application for an extension of time.

Our deadline to answer or move is today. We had expected Judge Baer to rule on our request, but the case was transferred prior to his receipt of our request for an extension. Since Judge Baer lacks jurisdiction to hear our request, this is technically still our first application for an extension of time to answer or move. We have already received plaintiffs' attorney's consent for our request, both to our request to Judge Baer, and our "second" request to you. As such, we respectfully request an extension of time to answer or move with papers due on or before March 31, 2008.

Please also find enclosed, per Mike's request, our Notice of Appearance.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Neelanjana Choudhury (2342)

NC/cm
Enclosures

cc: Ben M. Arai, Esq. (via fax and regular mail)

Defendants' time to answer and all other deadlines are stayed until March 31, 2008. All counsel are referred to this Court's individual rules of practice for procedures regarding filing of motions, including any preanswer motions to dismiss. Counsel to Defendants shall file notices of appearance by the Court's Electronic Case Filing (ECF) system.

So Ordered:



KENNETH M. KARAS
United States District Judge

Dated: February 27, 2008